

NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

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Memo to: Joint Legislative Commission on Governmental Operations
From: Carolin Bakewell, Counsel
North Carolina State Board of Dental Examiners
Date: December 30, 2015
Re: Request for Consultation

Please accept this Memorandum and attachments as the North Carolina State Board of Dental Examiners' request pursuant to N.C. Gen. Stat. 12-3.1 for a consultation regarding proposed rules that would change and/or increase fees charged to dentists by the Board.

First, the Board seeks to amend 21 NCAC 16 Q .0201(a) to provide that a dentist seeking a general anesthesia permit must pay a \$ 475 application fee for each location at which the dentist plans to administer general anesthesia. Under the current rule, the dentist must pay a \$100 application fee and a \$375 evaluation fee. The proposed rule would combine the two existing fees into one. Note that the current rule does not include a charge for inspections of satellite locations. The fee proposed to be charge covers the cost of processing the application, the evaluation of the dentist (done by dentists in private practice) and inspections of each office where anesthesia is to be provided.

Second, the Board seeks to adopt 21 NCAC 16Q .0702 to require inspections of the facilities of general anesthesia and sedation permit holders annually for the first five years that they hold a permit and to also allow inspections of other permit holders with or without cause to ensure compliance with the Dental Practice Act. This amendment was strongly recommended by the State Auditor's Office during a recent review. The proposed rule would charge a \$100 fee for inspections conducted pursuant to the Rule. The fee would cover the cost of sending an inspector to the dental office and producing an inspection report.

Statutory Authority for Fees

Pursuant to N.C. Gen. Stat. 90-39(11), the Board may charge up to \$750 for office inspections for sedation or general anesthesia permit holders or applicants. Pursuant to N.C. Gen. Stat. 90-

39(12), the Board may charge up to \$100 for each application for a general anesthesia or sedation permit and \$100 for the renewal of a general anesthesia or sedation permit. Pursuant to G.S. 90-39(2a), the Board may charge up to \$100 for the late renewal of any license or permit.

Reason for Requested Fee Increases

The Dental Board respectfully requests authority to charge the fees to defray its expenses in conducting inspections and evaluations of facilities where general anesthesia or sedation is administered. The Board has to hire at least one dentist with a current sedation or anesthesia license to conduct each evaluation or inspection.

Copies of the rules with the proposed amendments are attached. We are about to submit these rules to the Office of Administrative Hearings/Rules Division for Publication.

Thank you for your concertation of this request.

Pc: Commission Assistant
General Assembly Fiscal Research Division

1 21 NCAC 16Q .0201 is proposed for amendment as follows:

2
3 **21 NCAC 16Q .0201 GENERAL ANESTHESIA CREDENTIALS AND PERMIT**

4 ~~(a) No dentist shall employ or use general anesthesia on an outpatient basis for dental patients unless the dentist~~
5 ~~possesses a permit issued by the Board. A dentist holding a permit shall be subject to review and shall only employ~~
6 ~~or use general anesthesia at a facility located in the State of North Carolina in accordance with 21 NCAC 16Q .0202.~~
7 ~~Such permit must be renewed annually and shall be displayed with the current renewal at all times in a conspicuous~~
8 ~~place in the office of the permit holder.~~

9 (a) Before a dentist licensed to practice in North Carolina may administer or supervise a CRNA to deliver general
10 anesthesia, the dentist shall obtain a general anesthesia permit from the Board by completing an application form
11 and paying a four hundred seventy five dollar (\$475.00) fee. The application form is available on the Board's
12 website: www.ncdentalboard.org. The permit shall be renewed annually and shall be displayed with the current
13 renewal at all times in the permit holder's facility where it is visible to patients receiving treatment.

14 (b) A dentist applying for a general anesthesia permit shall be in good standing with the Board and demonstrate that
15 he or she:

16 ~~(b) Any dentist who wishes to administer general anesthesia to patients must apply to the Board for the required~~
17 ~~permit on a prescribed application form, submit an application fee of one hundred dollars (\$100.00) and produce~~
18 ~~evidence showing that he or she:~~

- 19 (1) Has completed a minimum of two years ~~one year~~ of advanced training in anesthesiology and
20 related academic subjects ~~(or its equivalent)~~ beyond the undergraduate dental school level; or
21 (2) Has graduated from a program certified by the American Dental Association in Oral and
22 Maxillofacial Surgery; or
23 (3) Is a Diplomate of or eligible for examination by the American Board of Oral and Maxillofacial
24 Surgery; or
25 (4) Is a Fellow of the American Dental Society of Anesthesiology; ~~or and~~
26 (5) ~~Is a dentist who has been administering general anesthetics in a competent manner for the five~~
27 ~~years preceding the effective date of this Rule.~~
28 (5) Has current ACLS certification.

29 (c) Before receiving a general anesthesia permit, all applicants shall pass an evaluation and inspection as set out in
30 Rule .0202 of this Section. Every location other than a hospital or credentialed surgery center where a general
31 anesthesia permit holder administers general anesthesia shall pass an inspection as set out in Rule .0202 of this
32 Section. An additional fee of four hundred seventy five dollars (\$475.00) shall be paid for the inspection of each
33 additional location other than a hospital or credential surgery center where a general anesthesia permit holder
34 administers general anesthesia.

35 ~~(e)(d) A dentist who is qualified to administer general anesthesia in accordance with this Section and holds a~~
36 ~~general anesthesia permit may is also authorized to administer any level of sedation without obtaining a separate~~
37 ~~sedation permit.~~

1 ~~(d) The dentist involved with the administration of general anesthesia shall document current, successful completion~~
2 ~~of advanced cardiac life support (ACLS) training, or its age-specific equivalent or other Board-approved equivalent~~
3 ~~course and auxiliary personnel shall document annual, successful completion of basic life support (BLS) training.~~

4 (e) A dentist who does not hold a general anesthesia permit may not employ a CRNA or RN to provide deliver
5 general anesthesia services. anesthesia. A dentist who holds a general anesthesia permit may permit a CRNA to
6 provide deliver general anesthesia services under direct supervision of the dentist.

7 (f) A general anesthesia permit holder may provide general anesthesia or any level of sedation at the office of
8 another licensed dentist, regardless of the permit, if any held, by the hosting dentist. The permit holder shall ensure
9 that the facility where the general anesthesia or sedation is administered has been inspected and complies with the
10 requirements set out in Rule .0202 of this Section or shall obtain an itinerant general anesthesia permit and comply
11 with the provisions of Rule .0206 of this Section.

12

13 *History Note: Authority G.S. 90-28; 90-30.1;*
14 *Eff. February 1, 1990;*
15 *Amended Eff. April 1, 2001; August 1, 2000;*
16 *Temporary Amendment Eff. December 11, 2002;*
17 *Amended Eff. April 2, 2016; February 5, 2008.*

1 21 NCAC 16Q .0702 is proposed for adoption as follows:
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3 **21 NCAC 16Q .0702 INSPECTION AUTHORIZED**

4 (a) The Board may inspect the facility, equipment, auxiliaries, records or procedures of any general anesthesia,
5 itinerant general anesthesia permit holder or sedation permit holder, with or without, cause to ensure compliance
6 with this Subchapter. The inspections shall be conducted in accordance with Rules .0204, .0205, .0303 and .0401 of
7 this Subchapter.

8 (b) The Board shall inspect every general anesthesia and sedation permit holder's facility and records at least once
9 every five years, in accordance with Rule .0405 of this Subchapter.

10 (c) The Board shall annually inspect the facility and records of all general anesthesia and sedation permit holders
11 who have held a permit for less than five years.

12 (d) The Board shall suspend the permit of any general anesthesia, itinerant general anesthesia or sedation permit
13 holder who fails any inspection. No anesthesia or sedation procedures shall be performed at the failed facility site
14 until a re-inspection is performed and a new permit is issued.

15 (e) The Board shall charge a fee of one hundred dollars (\$100.000) for each inspection conducted pursuant to this
16 Rule.

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18 *History Note: Authority G.S. 90-28; 90-30.1; 90-48;*

19 *Eff. April 2, 2016.*